

REMARKS

Applicant thanks Examiner Erez for the Interview conducted on April 7, 2005. Claims 27 – 29, 31 and 32 are pending in this application. The March 8, 2005 Office Action rejected Claims 27-29, 31 and 32 as anticipated by U.S. 6,045,565 (hereinafter “Ellis” or “the ‘565 Patent”) to Ellis *et al.* under 35 U.S.C. 102(b). According to the Office Action, Ellis teaches a method for exposing a tissue cutting device 38 located in a distal portion of a lumen of an endoscope catheter 36 for passing through the working channel of an endoscope which comprises: providing the cutting member with a plurality of radiopaque indicia located at radiologically measureable intervals along a length of the cutting member (col. 4, lines 34-38); deploying the cutting member; and radiologically determining the length of the cutting member depolyed (“visualization of hole depth” col. 4, lines 36-37) wherein said step of radiologically determining the length uses a radiopaque reference point (inherent in the recited disclosure); wherein said cutting member is needle knife (col. 4, lines 39) and the radio reference point is at the distal end of the catheter (tip of the needle).

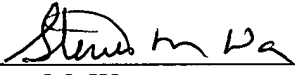
Column 4, lines 34 – 38 of the ‘565 Patent states “In some embodiments, radiopaque material is included with the angiogenic material. Radiopaque material allows confirmation of successful injection, visualization of hole depth, and visualization of any material expelled or washed from the hole.” As discussed during the interview the radiopaque material disclosed in this section of the ‘565 patent is included with the angiogenic material which is injected into the body and this section of the ‘565 Patent does not disclose, *inter alia*, a plurality of radiopaque indicia located at radiologically measurable intervals along a length of the cutting member.

Applicant therefore respectfully traverses the 35 U.S.C. § 102(b) rejection based on the '565 Patent.

Applicant believes that all pending claims are now in condition for allowance. Should the Examiner have any questions or comments regarding this communication, he may contact the Applicant's representative at the number below. Applicant believes that no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. WO-BSX 219 from which the undersigned is authorized to draw.

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Respectfully submitted,

By 
Steven M. War
Registration No.: 48,024
FULBRIGHT & JAWORSKI L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, DC 20004-2623
(202) 662-0200
(202) 662-4643 (Fax)
Attorney for Applicant